

LICENSING ACT SUB COMMITTEE

Wednesday, 20 September 2023

Present: Councillors A Hodson
S Bennett
B Hall

13 APPOINTMENT OF CHAIR

Resolved – That Councillor A Hodson be appointed Chair for this meeting.

14 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the Licensing Act Sub-Committee were asked to declare any disclosable pecuniary and non pecuniary interests in connection with any application on the agenda and state the nature of the interest.

No such declarations were made.

15 APPLICATION FOR A PREMISES LICENCE UNDER THE PROVISIONS OF THE LICENSING ACT 2003 - 357 PENSBY ROAD, PENSBY CH61 9NF

The Director of Law and Governance reported upon an application that had been received from Ozgur Gulasik for a Premises Licence in respect of 357 Pensby Road, Pensby, CH61 9NF.

The hours applied for the Premises Licence were set out within the report.

The applicant had submitted an operating schedule setting out how the business would be conducted/managed in accordance with the four licensing objectives. A copy of the full application was available. Members were advised that the proposals set out in the operating schedule may become conditions of the licence should the application be granted.

In respect of the application 10 representations had been received from local residents within the statutory timescale and a further representation had been received outside of the consultation period. A petition containing 50 signatures had also been received which had been submitted by Ward Councillor Mike Sullivan. The representations related to concerns that should the application be granted as applied for, the licensing objectives would be undermined due to the close proximity of the premises to residential properties. Copies of the representations had been provided to Members.

The applicant attended the meeting together with their Agent. Ward Councillor Mike Sullivan was also in attendance together with three local residents who had made representations.

The Licensing Manager confirmed that all documentation had been sent and received and that a local resident who was in attendance at the meeting had given authority for Councillor Sullivan to speak on behalf of residents and in respect of the petition.

The Licensing Manager outlined the report.

The applicant's Agent addressed the Sub-Committee and advised that the premises would operate as a barbeque style restaurant. They informed Members that further to concerns of local residents, the applicant wished to amend the application to permit the sale of alcohol Monday to Sunday 10.00 am until 11.00 pm with the premises open to the public 10.00 am until 11.00 pm and that they wished to withdraw the request for Late Night Refreshment. They advised that last orders for food would be 9.30 pm, last orders for alcohol would be 10.30 pm and that cooking should finish at 10.00 pm. They further informed Members that the application for 'off sales' had been made in order to enable customers who had dined in the restaurant to take home any alcohol they had had with their meal which they had not finished while at the premises. This was also to allow alcohol to be sold with takeaway meals. They outlined the operation of the premises in that alcohol would not be sold without a meal and there would be no vertical drinking at the premises. They also emphasised that the premises would not be operating as an 'off licence' or a bar.

The applicant's Agent reported that a planning application had been submitted for a conservatory to be built at the front of the premises that would provide an additional dining area. The current seating capacity for customers would be 60 covers and the conservatory would provide approximately an additional 18 covers.

The applicant informed Members of the Sub-Committee that they were willing to accept any conditions that Members believed would be necessary to uphold the licensing objectives should the application be granted. These included having all windows and doors closed at 10.00 pm and measures to prevent individuals who wished to smoke outside of the premises taking drinks with them.

In response to questions from Members of the Sub-Committee, local residents and the legal advisor to the Sub-Committee, the applicant provided details of the staffing provisions of the premises and advised that the Premises Licence Holder would be present during the operation of the business. The applicant also informed Members that background music would be played at the premises.

The Licensing Manager stated that the granting of a Premises Licence to sell alcohol does allow provision for Live and Recorded Music to be played at the premises.

The applicant advised that they would be willing to provide a direct contact number to local residents and also hold monthly meetings to discuss any issues and work with local residents.

The local residents in attendance informed Members of the Sub-Committee that on the whole the restaurant would be welcome in the area and they were pleased that the application had been amended. Ward Councillor Mike Sullivan and the local residents did however express concerns in respect of noise emanating from the premises due to the close proximity of residential properties. The local residents also expressed concerns regarding the times that the premises proposed to operate in respect of the sale of alcohol from 10.00 am. Residents expressed their concerns that nuisance and anti-social behaviour may be caused should individuals be allowed to purchase alcohol without food and consume this alcohol in the vicinity of the premises.

Residents also expressed concerns regarding parking issues in the area which they considered would be exacerbated should a Premises Licence be granted and that noise nuisance could be caused by the disposal of bottles late at night.

Local residents responded to questions from the legal advisor to the Sub-Committee.

In determining the application Members of the Licensing Act Sub-Committee had regard to the Licensing Objectives, the Council's Statement of Licensing Policy and the Statutory Guidance issued under Section 182 of the Licensing Act 2003.

In determining the matter Members gave consideration to the representations from local residents and the Ward Councillor. Members had regard to the amended application which sought to address the concerns raised by local residents and which had been welcomed. Members took into account the business model of the premises which would be to operate as a restaurant and that alcohol would not be sold to customers without food.

Members had regard to the fact that the applicant wished to work with local residents by providing a contact number and having regular meetings.

Members had regard to their Policy and the close proximity of residents to the premises.

In coming to their decision, Members had regard to the Statutory Guidance issued under the Licensing Act 2003 that their decision must be evidenced based. In this regard, they took into consideration that there was no evidence that the premises would operate in such a way so as to contribute to anti-social behaviour in the area and that there were no representations from any of the Responsible Authorities, in particular Merseyside Police.

Members also took into account Section 11 of the Guidance in respect of the review mechanism provided by the Licensing Act 2003 when problems associated with the Licensing Objectives occur after the grant of a Premises Licence.

Resolved –

(1) That in accordance with Regulation 14(2) of the Licensing Act 2003, the public be excluded from the meeting during consideration of the application.

(2) That the application for a Premises Licence in respect of 357 Pensby Road, Pensby, CH61 9NF be granted with the following hours:

Sale of Alcohol (for consumption ‘on’ and ‘off’ the premises)

Sunday to Saturday 10:00 to 22:30

Hours Open to the Public

Sunday to Saturday 10:00 to 23:00

(3) That the following conditions be attached to the Premises Licence:

- All staff must be fully trained to perform their role. They must also be trained in the contents of the Premises Licence including times of operation, licensable activities and all conditions. Training must be recorded in documentary form that must be available for inspection at the request at all reasonable times by an Authorised Officer. The records must be retained for at least 12 months.**
- An incident book must be maintained to record any activity of a violent, criminal or anti-social nature. The record must contain the time and date, the nature of the incident, the people involved, the action taken and details of the person responsible for the management of the premises at the time of the incident. The incident book must be available for inspection at all reasonable times by an Authorised Officer. The records must be retained for at least 12 months.**

- **CCTV must be installed at the Premises in the form of a recordable system, capable of providing clear, good quality images in all lighting conditions. Cameras must encompass all entrances and exits to the premises, any external seating or smoking areas, all areas where the sale, supply or consumption of alcohol occurs and all other areas where licensable activity takes place. Equipment must be maintained in good working order and checked on a regular basis to ensure it displays the correct time and date. The system must record in real time and operate whilst the premises are open to the public. The recordings must be retained for a period of 31 days and made available to an Authorised Officer and/or Police Officer on reasonable request for evidential purposes, in accordance with Data Protection Legislation. The Recording equipment must be kept in a secure environment under the control of the Premises Licence Holder or other responsible named individual. There must be sufficient members of trained staff available to be able to download or view CCTV evidence with the minimum of delay at the reasonable request of an Authorised Officer.**
- **If the CCTV equipment (Including any mobile units in use at the premises) breaks down the Premises Licence Holder must ensure that the Designated Premises Supervisor, or in his/her absence other responsible person, verbally informs the Licensing Authority as soon as is reasonably practicable. This information must be contemporaneously recorded in the incident report register and must include the time, date and means this was done and to whom the information was reported. Equipment failures must be repaired or replaced as soon as is reasonably practicable and without undue delay. The Licensing Authority must be informed when faults are rectified.**
- **Visual CCTV images recorded must be of evidential quality and must be kept in a safe and secure place for a period of 31 days.**
- **The Premises Licence Holder must ensure that the CCTV system is fully compliant with the guidance contained in the Information Commissioner's Office (ICO) guidance document regarding installation of CCTV provided at the premises.**
- **The premises must not at any time employ any persons or use the services of any Touts or PR Staff to promote the premises by approaching members of the public in any street and encouraging or inviting them to attend the premises.**

- **The collection of glasses and bottles must be undertaken at regular intervals to ensure there is no build-up of empties in and around the premises.**
- **Customers who wish to smoke outside of the premises must not be allowed to take drinks outside.**
- **The responsible person for the licensed premises must ensure that a suitable and sufficient fire risk assessment is completed for the premises, this must focus on the safety in case of fire of all “relevant persons”. Any significant findings must be recorded and acted upon.**
- **The Premises Licence Holder must nominate a senior member of staff as the person responsible for the management, supervision, compliance with licensing conditions.**
- **Speakers for amplification of music must not be placed on the outside of the premises or on the outside of any building forming a part of the premises, or in any area that will project loud music externally.**
- **The Premises Licence Holder or nominated person must ensure that suitable signage is positioned at exits to request the co-operation of patrons, in particular to make as little noise as possible when leaving the premises.**
- **All doors and windows must be kept closed from 22:00 except for access and egress.**
- **The Premises Licence Holder or nominated person must ensure that self-closing doors are not wedged open.**
- **Any internal speakers must be attached to independent wall linings and not to the ceiling. Any speakers must be mounted on speaker brackets that incorporate isolating rubber mounts.**
- **The Premises Licence Holder or nominated person must control the sound levels of music to prevent nuisance being caused.**
- **There must be no disposal of glass bottles into the outside bin between the hours of 21:00 and 09:00.**
- **Rubbish produced by the premises must be stored securely in a designated area or in a bin with a tight fitting and lockable lid. The ‘collection and removal of litter’ must be taken to include the**

satisfactory disposal of spilled food and similar materials so as to leave the footway clean and safe.

- **The premises must operate a Challenge 21 scheme. All staff must be trained in the scheme before being allowed to sell alcohol. Training records must be kept for inspection by an Authorised Officer. A record of any refusal to sell alcohol must be maintained in a book or electronically. These records must be monitored by the Designated Premises Supervisor and be made available to an Authorised Officer.**

Members of the Sub-Committee recommended that the premises meet regularly with local residents.